

**REMARKS**

This is in response to the Office Action mailed on February 7, 2007. Claims 1 and 3-28 were pending in the application, and the Examiner rejected all claims. With this amendment, claims 1, 4-6, 19-23 and 28 are amended and the remaining claims are unchanged in the application.

Applicant first respectfully requests that the Examiner withdraw the finality of the present Office Action. In the prior Office Action, the Examiner indicated that claims 3 and 20 would be allowable if rewritten in independent form. The limitations of claim 3, and intervening claims, were incorporated into independent claim 1 and claim 20 was incorporated into claim 19. The Examiner then, in the present Office Action, went on to reject all claims in view of the same art cited in the previous Office Action. Applicant thus submits that this places Applicant at an unfair disadvantage. The Examiner indicated that the claims would be allowed, but then went on to reject the claim based on the same art and made the action final. This does not give Applicant a reasonable chance to respond to the rejection.

Similarly, the Examiner, for the first time in the case, rejected claims under 35 U.S.C. §101. Based on these rejections, Applicant respectfully requests withdrawal of finality and the issuance of a new Office Action for a number of reasons. First, it appears that the Examiner is rejecting a number of the claims based on lack of utility in paragraphs 11 and 13 of the Office Action. Applicant respectfully submits that, if this is indeed the basis for the rejection, then the rejection should properly be made under 35 U.S.C. §112, first paragraph, instead of under 35 U.S.C. §101.

Further, in paragraph 12 of the Office Action, the Examiner appears to be rejecting the claims as being directed to non-statutory subject matter. This is the first time Applicant has seen this rejection, in this case. To make the rejection for the first time after final places Applicant at an unfair disadvantage, especially where the claims were indicated as containing allowable subject matter, because Applicant is not given an adequate time to respond to the rejection. Therefore, Applicant respectfully requests that the Examiner withdraw the finality of the present Office Action and issue a new Office Action.

In response to the rejection under 35 U.S.C. §101, Applicant submits that the claims are drawn to a useful system and one that is concrete and provides a useful output. Notwithstanding that, in order to advance prosecution, Applicant has amended independent claim 1 to specifically include the step of “accessing entries in the business data database wherein accessing an entry in the business data database comprises: reading an entry in the business data database that includes business data; indexing at least a portion of the business data by storing an index entry in an index on a computer readable medium; pausing for the predetermined time; and advancing to the next entry in the next entry in the business data database; and repeating steps D-G.”

Similarly, independent claim 19 has been amended to include “accessing the entries in the business data database wherein accessing the entries comprises: indexing the indicated portion of a plurality of fields for a first entry in the business data database by storing a first index entry on a computer readable medium; pausing for the period of time; advancing to a next entry in the business data database; indexing the indicated portion of the next entry in the business data database by storing a next index entry on the computer readable medium; and repeating instructions E-H.”

Therefore, not only do the claims specifically, concretely, and tangibly set out steps for receiving, manipulating and accessing data, but they also specifically set out the operation of indexing data and storing the index on a computer readable medium. Applicant thus submits that the claims are now unquestionably drawn to statutory subject matter, and useful.

The Examiner rejected claims 1 and 19 under 35 U.S.C. §112, second paragraph based on the term “desired rate”. The Examiner indicated that it was unclear what was meant by “desired rate”. Therefore, the Applicant has amended independent claim 1 to state “user-specified rate” instead of “desired rate”. Therefore, Applicant submits that the claim is clear.

The Examiner also rejected claim 19 based on the term “desired rate”. However, that term is not found in independent claim 19.

On page 4 of the Office Action, the Examiner rejected claims 1, 3-8, 15-18, and 19-23 under 35 U.S.C. §103(a) as being unpatentable over Dayal in view of Reinhardt. Applicant respectfully traverses the Examiner’s rejection.

Independent claims 1 and 19 are neither taught nor suggested by the references cited by the Examiner. The present claims are drawn to a method by which the user can determine how fast data is accessed and indexed. In other words, the user determines how frequently data accessing steps are performed.

Reinhardt simply does not teach or suggest any type of speed adjustment for indexing data. Similarly, the cited portions of Dayal (paragraphs 40 and 41) simply allow a user to launch a query, and then check the status of the query by suspending execution of the query and reviewing intermittent results of the query. Specifically, Dayal states “in cases where the client may wish to monitor the execution of the query, the client pauses the query execution, monitors the partial report, then either terminates the query or issues a continue request 31...” see Dayal paragraph 40. The report governor in Dayal also monitors system throughput and stops data transfers if they are resulting in degradation of the system performance. Dayal states “additionally the report governor monitors content transfer from the server. Specifically, the report governor monitors [the] amount of data transferred in bytes, number of lines rendered, and/or time taken in the transfer. The report governor stops transfers if the system transfers are degrading or excess content is transferred. These functions prevent server time-outs. For example, the report governor may be programmed to stop a query if the lapsed time in data transfer exceeds a predetermined time, for example 30 seconds.” Dayal therefore allows a user to stop a query to review intermittent results, and it also contains an automated governor that monitors system performance and stops the query if it takes too long to execute. However, this simply fails to teach a user-selectable rate at which data records are accessed for indexing. There is no teaching or indication, whatsoever, in Dayal that a rate at which repeated data access operations are performed can be selected by the user.

Yet, this is what is set out in independent claim 1. Independent claim 1 claims “setting a period of time to pause between accessing an entry in the business data database and accessing a next entry in the business data database base upon the user-specified rate of accessing data[.]” Claim 1 goes not to specifically claim repeated data accessing operations “pausing for the period of time”. Thus, it is clear that independent claim 1 claims a system by which a user

can specify a rate at which repeated data accessing operations are performed. This is simply neither taught nor suggested by the references cited by the Examiner.

Independent claim 19 is directed to a computer readable medium that stores instructions. The instructions include “receiving an indication from a user indicating a rate of accessing entries in the business data database; setting a period of time to pause between accessing entries in the business data database based on the indicated rate; accessing the entries in the business data database wherein accessing entries comprises: indexing the indicated portion of the plurality of fields for a first entry in the business data database... pausing for the period of time; advancing to a next entry in the business data database; indexing the indicated portion of the next entry...and repeating instructions E-H.” It is thus clear that claim 19 also specifically allows a user to set a rate at which multiple accesses are performed in a business data database. Because Dayal only teaches that a query execution can be stopped and then restarted by a user, it fails to teach or suggest that the user can set a rate at which repeated data accessing operations are performed for indexing. Therefore, Applicant respectfully submits that the references cited by the Examiner simply fail to teach or suggest the invention as set out in independent claim 19.

In conclusion, Applicant respectfully requests that the finality of the present Office Action be withdrawn and that a new Office Action be issued. Alternatively, Applicant respectfully submits that the claims, as amended, are in proper form and are allowable over the references cited by the Examiner. Reconsideration and allowance of claims 1 and 3-28 are respectfully requested.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

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